

b.) Remarks

Claims 45-47 are presented to recite various preferred embodiments of the present invention. The subject matter of the amendment may be found in the specification at page 21 et seq.

In the January 22, 2009 Advisory Action, the Examiner entered the Amendment after Final Rejection but maintained the rejections. The Examiner states

while Applicant has demonstrated that utilizing the particular surfactants found in the affidavit are superior to those found in Miki et al., Applicant does not claim any of these specific surfactant in the instant claims.

As to this, polyoxyethylene alkylamine and polyoxyethylene alkenylamine are explicitly recited in claim 1 at line 7. Apparently then, as best understood by the undersigned, the Examiner is stating Applicants' showings for polyoxyethylene dodecylamine, octadecylamine and oleylamine are not sufficiently representative of those generic terms. If so, the Examiner should have provided an Affidavit under MPEP §2144.03 in support of such position. Such Affidavit is, therefore, respectfully requested. Absent that, the Office Action is incomplete and withdrawal of this rejection is respectfully requested.

In that regard, the Examiner also states

it would have been obvious to the skilled artisan to utilize a surfactant which would provide the best measurement results, as found in the teachings provided by Miki et al.

While that may be so, the present invention nevertheless exhibits >50% improvement over the closest prior art and so, any *prima facie* case of obviousness is still rebutted. *KSR International Co. v. Teleflex Inc.*, 82 USPQ 1385, 1388 (2007) citing *Graham v. John Deere Co. of Kansas City*, 148 USPQ 459 (1966).

Entry hereof is earnestly solicited.

Claims 1-3, 38, 39 and 41-47 remain presented for continued prosecution.

Applicant's undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

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